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09/929,227	08/13/2001	Stephen F. Gass	SDT 304	8817

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EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT PAPER NUMBER

3724

DATE MAILED: 12/23/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,227

Applicant(s)

GASS ET AL.

Examiner

Boyer D. Ashley

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6-18 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4,6-8,11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3724

DETAILED ACTION

It should be noted that for the purpose of this office action the below rejections under 35 U.S.C. 101 (double patenting) are being made under the assumption that the applications were not commonly owned at the time of applicant's invention. It should further be noted that rejections under 35 U.S.C 102(a) and 102(e) using the same U.S. Patent Applications/Publications have not been made because they do qualify as prior art as there filing dates are not before the filing date of the instant application.

Election/Restrictions

1. Applicant's election of Groups I (claims 1-7) and A (claims 2-5) in Paper No. 10 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 6-18 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 13.
3. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(e). See 37 CFR 1.78.

Specification

4. The disclosure is objected to because of the following informalities: pages 7-10, 12-14, 16, 27 and 28 all include references to application serials that are missing. Appropriate correction is required.

SPECIAL CIRCUMSTANCES OF THIS APPLICATION:

Art Unit: 3724

5. Even if a copending application is listed as a parent to the instant application and material information is technically of record in one or more parent applications, the unusually large number of applicant's cases in varying stages of the examination process might result in one or more parent applications not being readily available for review, or material information of record not being readily apparent. Applicant should point out such material information to the examiner of the instant application if the criteria for materiality applies, and if the examination record provides applicant reason to believe such information has not been considered by the examiner.

If, to the best of applicant's knowledge, applicant has no previous patent or copending application, which would meet the definition of "material," applicant is requested to make a statement of that fact of record.

Any parent application labeled as a CIP or Divisional is assumed to claim a patentably distinct invention from the claims of this application and therefore the issue of double patenting has not been considered and the rights to priority are limited to the common disclosed subject matter unless it is brought to the examiners attention that some claims are not distinct.

37 CFR 1.56 is cited here:

37 CFR 1.56. Duty to disclose information material to patentability.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

Art Unit: 3724

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-5 and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 4-5, 8, and 14-18 of copending Application No. 10/215,929, in view of Friemann et al., U.S. Patent 3,858,095.

Claims 1-2, 4-5, 8, and 14-18 of copending application '929 discloses the invention substantially as claimed except for the actuator being able to brake the cutting tool within approximately 3 milliseconds or less. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least 5 milliseconds.

Art Unit: 3724

The modified device of claimed application '929 discloses the claimed invention except for the specific 3 millisecond stopping time. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

This is a provisional obviousness-type double patenting rejection.

8. Claims 1-5 and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 5-6, 12-13, 16, and 18 of copending Application No. 10/929,237, U.S. Patent application 2002/0020262, in view of Friemann et al., U.S. Patent 3,858,095.

Claims 1, 3, 5-6, 12-13, 16, 18 of copending application '237 discloses the invention substantially as claimed, including an actuator (the capacitor of claim 3) for having stored energy; however, '237 lacks an actuator for bring able to brake the cutting tool within approximately 3 milliseconds or less. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least 5 milliseconds.

Art Unit: 3724

The modified device of claimed application '237 discloses the claimed invention except for the specific 3 millisecond stopping time. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

It should be noted that the claims of '237 are silent as to the support frame of claim 1 of instant application; however, it should be noted that the claims of '237 inherently disclose because the cutting tool and motor must be mounted to something. In any event, even if it is argued that the claims of '237 lack the support frame the examiner takes official notice that it is old and well known in the art to mount the cutting tool and motor in the same support frame in order to provide functionality, mobility and operability, as also taught by Friemann et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to mount the cutting tool and motor of the claims of the instant application with a support frame such that the functionality, mobility and operability of the device is enhanced and possible.

It should further be noted that even though the claims use different terminology for the remaining elements not addressed here they encompass the same subject matter.

This is a provisional obviousness-type double patenting rejection.

9. Claims 1-5 and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of

Art Unit: 3724

copending Application No. 10/929,240, U.S. Patent application 2002/0020263, in view of Friemann et al., U.S. Patent 3,858,095.

Claims 1-29 of copending application '240 discloses the invention substantially as claimed but uses different terminology for the same subject matter; however, '240 lacks the specific actuator for being able to brake the cutting tool within approximately 3 milliseconds or less. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least 5 milliseconds.

The modified device of claimed application '240 discloses the claimed invention except for the specific 3 millisecond stopping time. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

It should be noted that the claims of '240 are silent as to the motor of claim 1 of instant application; however, it should be noted that the claims of '240 inherently disclose the motor because the cutting tool must be powered by something. In any event, even if it is argued that the claims of '240 lack the motor the examiner takes official notice that it is old and well known in the art to use motors with cutting tools in order to operate

Art Unit: 3724

cutting tool, as also taught by Friemann et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a motor with the cutting tool of the claims of the instant application in order to power the cutting tool to cut a workpiece.

This is a provisional obviousness-type double patenting rejection.

10. Claims 1-5 and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/146,527, U.S. Patent application 2002/0170400, in view of Friemann et al., U.S. Patent 3,858,095.

Claims 1-20 of copending application '527 discloses the invention substantially as claimed but uses different terminology for the same subject matter; however, '527 lacks the specific actuator for being able to brake the cutting tool within approximately 3 milliseconds or less. Application '527 claims a band saw with an actuator with stopping ability of 10 milliseconds and Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least 5 milliseconds. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that

Art Unit: 3724

discovering an optimum value of a result effective variable involves only routine skill in the art.

This is a provisional obviousness-type double patenting rejection.

11. Claims 1-5 and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of copending Application No. 10/929,236, U.S. Patent application 2002/0020261, in view of Friemann et al., U.S. Patent 3,858,095.

Claims 1-11 of copending application '236 discloses the invention substantially as claimed but uses different terminology for the same subject matter; however, '236 lacks the specific actuator for being able to brake the cutting tool within approximately 3 milliseconds or less. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least 5 milliseconds.

The modified device of claimed application '236 discloses the claimed invention except for the specific 3 millisecond stopping time. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Art Unit: 3724

It should be noted that the claims of '236 are silent as to the motor of claim 1 of instant application; however, it should be noted that the claims of '236 inherently disclose the motor because the cutting tool must be powered by something. In any event, even if it is argued that the claims of '236 lack the motor the examiner takes official notice that it is old and well known in the art to use motors with cutting tools in order to operate cutting tool, as also taught by Friemann et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a motor with the cutting tool of the claims of the instant application in order to power the cutting tool to cut a workpiece.

This is a provisional obviousness-type double patenting rejection.

12. Claims 1-5 and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of copending Application No. 10/929,235, U.S. Patent application 2002/0017184, in view of Friemann et al., U.S. Patent 3,858,095.

Claims 1-29 of copending application '235 disclose the invention substantially as claimed but use different terminology for the same subject matter; however, '235 lacks the specific actuator for being able to brake the cutting tool within approximately 3 milliseconds or less. Application '235 claims a band saw with an actuator with stopping ability of 10 and 5 milliseconds and Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to have claimed that the actuator of instant application is

Art Unit: 3724

actuated to brake the cutting tool as fast as possible and at least 5 milliseconds.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

It should be noted that the claims of '235 are silent as to the motor of claim 1 of instant application; however, it should be noted that the claims of '235 inherently disclose the motor because the cutting tool must be powered by something. In any event, even if it is argued that the claims of '235 lack the motor the examiner takes official notice that it is old and well known in the art to use motors with cutting tools in order to operate cutting tool, as also taught by Friemann et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a motor with the cutting tool of the claims of the instant application in order to power the cutting tool to cut a workpiece.

This is a provisional obviousness-type double patenting rejection.

13. Claims 1-5 and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 22-26 of copending Application No. 10/929,241, U.S. Patent application 2002/0017180, in view of Friemann et al., U.S. Patent 3,858,095.

Art Unit: 3724

Claims 22-26 of copending application '241 discloses the invention substantially as claimed but uses different terminology for the same subject matter; however, '241 lacks the specific actuator for being able to brake the cutting tool within approximately 3 milliseconds or less. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have been obvious to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least 5 milliseconds.

The modified device of claimed application '241 discloses the claimed invention except for the specific 3 millisecond stopping time. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

The modified device of claimed application '241 discloses the claimed invention except for the cutting tool having one or more teeth. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a cutting tool with multiple teeth and a braking device that engages the teeth of the cutting tool in order to ensure positive engagement between the brake and the tool as claimed in claims 1-21 of '241. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a cutting tool with

Art Unit: 3724

multiple teeth and a brake for engaging the teeth with the device of claims 22-26 of '241 to ensure positive engagement between the brake and tool.

It should be noted that the claims of '241 are silent as to the support frame of claim 1 of instant application; however, it should be noted that the claims of '241 inherently disclose because the cutting tool and motor must be mounted to something. In any event, even if it is argued that the claims of '241 lack the support frame the examiner takes official notice that it is old and well known in the art to mount the cutting tool and motor in the same support frame in order to provide functionality, mobility and operability, as also taught by Friemann et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to mount the cutting tool and motor of the claims of the instant application with a support frame such that the functionality, mobility and operability of the device is enhanced and possible.

14. Claims 1-5 and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/052,274, U.S. Patent application 2002/0059854, in view of Friemann et al., U.S. Patent 3,858,095.

Claims 1-20 of copending application '274 discloses the invention substantially as claimed but uses different terminology for the same subject matter; however, '274 lacks the specific actuator for being able to brake the cutting tool within approximately 3 milliseconds or less. However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically 5 milliseconds for the purpose of preventing injury to the user. Therefore, it would have

Art Unit: 3724

been obvious to have claimed that the actuator of instant application is actuated to brake the cutting tool as fast as possible and at least 5 milliseconds.

The modified device of claimed application '274 discloses the claimed invention except for the specific 3 millisecond stopping time. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond stopping time in order to increase the ability of the claimed device to prevent accidents because it is taught by Friemann et al. that the stopping time should be as quick as possible and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

This is a provisional obviousness-type double patenting rejection.

15. Claims 1-5 and 19 are directed to an invention not patentably distinct from the claims, see above, of commonly assigned applications, for the reasons stated above.

The U.S. Patent and Trademark Office normally will not institute an interference between applications or a patent and an application of common ownership (see MPEP § 2302). Commonly assigned applications, discussed above, would form the basis for a rejection of the noted claims under 35 U.S.C. 103(a) if the commonly assigned case qualifies as prior art under 35 U.S.C. 102(f) or (g) and the conflicting inventions were not commonly owned at the time the invention in this application was made. In order for the examiner to resolve this issue, the assignee is required under 35 U.S.C. 103(c) and 37 CFR 1.78(c) to either show that the conflicting inventions were commonly owned at the time the invention in this application was made or to name the prior inventor of the

Art Unit: 3724

conflicting subject matter. Failure to comply with this requirement will result in a holding of abandonment of the application.

A showing that the inventions were commonly owned at the time the invention in this application was made will preclude a rejection under 35 U.S.C. 103(a) based upon the commonly assigned case as a reference under 35 U.S.C. 102(f) or (g), or 35 U.S.C. 102(e) for applications filed on or after November 29, 1999.

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(f) he did not himself invent the subject matter sought to be patented.

17. Claims 1-5 and 19 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter.

It is not clear who actually invented the subject matter of claims 1-5 and 19 because each of the above co-pending applications have different inventive entities. Therefore, it is not clear which portion of the applications where invention by the same inventive entity of the instant application.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3724

19. Claims 1-2 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andreasson, U.S. patent 4,653,189, in view of Friemann et al., U.S. Patent 3,858,095.

Andreasson discloses the invention substantially as claimed, including an actuator having stored energy sufficient to move the brake component (a capacitor that is charged to discharge to power the brake). Andreasson lacks the specific actuator for bring able to brake the cutting tool within approximately 3 milliseconds or less.

However, Friemann et al. discloses that it is old and well known in the art to actuate braking of a cutting tool as fast as possible and more specifically within 5 milliseconds for the purpose of prevent injury to the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have the brake of Andreasson capable of actuation within 5 milliseconds in order to prevent injury to the user.

As to the specific 3 milliseconds, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 3 millisecond instead of 5 milliseconds in order to increase the ability of the device to prevent accidents because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

20. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andreasson in view of Friemann et al. as applied to claims 1-2 above, and further in view of Baur, U.S. Patent 3,695,116, and Bielinski, U.S. Patent 5,606,889.

The modified device of Andreasson discloses the invention substantially as claimed except for that the actuator includes a electromechanical but is silent as to the type of electromechanical device and therefore, it lacks an actuator with a spring, wherein a removably housing is coupled to the frame and housing the spring and brake.

Baur discloses that it is old and well known in the art to replace electro-mechanical devices with spring loaded actuators that are electrically responsive by tensioned wires for the purpose of providing fast acting, less expensive, and smaller devices that providing large mechanical forces.

Bielinski discloses that it is old and well known in the art to use spring loaded actuators that use fusible members are contained in replaceable/removable cartridges for the purpose of facilitating efficiency of the operation of the device thereby allowing the user to quickly and easily replace used cartridges with new ones.

Furthermore, the examiner takes official notice that it is old and well known in the art to use to replace brakes and spring when they are worn out or before they are worn out for the purpose of maintaining the effectiveness of the brake system of the cutting tool such that the user is protected.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to a removable housing comprising springs, brakes, and fusible members that enable actuation of a braking mechanism by a spring actuator in order to provide a fast acting, less expensive, smaller actuator that facilitates efficiency of the operation as taught by Baur and Bielinski, and such that the effectiveness of the braking system is maintained.

Art Unit: 3724


Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
December 13, 2003